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Attorney Docket No.: P-6464-US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: ANDERSON, Robert S., et al. Examiner: Not yet known

Serial No.: 10/767,459 Group Art Unit: Not yet known

Filed: January 30, 2004

Title: SYSTEM AND METHOD FOR TREATING TISSUE

PETITION UNDER 37 C.F.R. §1.47

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Lumenis Ltd., the assignee of the present application, hereby petitions to proceed with prosecution of the application despite the refusal of the inventors to sign an oath or declaration. In support of Lumenis' petition, are submitted as follows:

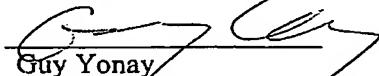
- Declaration of Yoni Iger and Statement Establishing Sufficient Proprietary Interest;
- Statement of Guy Yonay in Support of Petition Under 37 C.F.R. §1.47; and
- Fee Under 37 C.F.R. §1.17(h).

No fees additional to the fee under 37 C.F.R. §1.47 are believed to be due, however, if any such additional fees are due, the undersigned hereby authorizes the United States Patent and Trademark Office to charge the fees to Deposit Account 05-0649.

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Should there arise any question or comments as to the form, content or entry of this Petition, the undersigned is available to be contacted at the telephone number below.

Respectfully submitted,



Guy Yonay
Attorney for Applicants
Registration No. 52,388

Dated: November 9, 2004

Eitan, Pearl, Latzer & Cohen Zedek, LLP.
10 Rockefeller Plaza, Suite 1001
New York, New York 10020
Tel: (212) 632-3480
Fax: (212) 632-3489



**DECLARATION, POWER OF ATTORNEY FOR PATENT APPLICATION AND
STATEMENT ESTABLISHING SUFFICIENT PROPRIETARY INTEREST BY
YONI IGER IN LIEU OF INVENTORS**

Since the below named inventors refuse to sign a declaration, I, Yoni Iger, hereby declare that:

Lumenis Ltd. an Israeli company located at P.O Box 240, Yokneam 20692, Israel is the owner of all proprietary rights in the subject application by virtue of assignment signed by the below named inventors. The assignment is attached as Exhibit A.

I am authorized by Lumenis Ltd., the assignee of the subject application, to make this declaration.

The residence, post office address and citizenship of the named inventors of the subject application are as stated below.

Upon information and belief Anderson, Robert S. and Young, Steven Randal are the original inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SYSTEM AND METHOD FOR TREATING TISSUE

the Specification of which



is attached hereto
was filed on **January 30, 2004**
as United States Application Number or PCT International
Application No. **10/767,459**
and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified Specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, 1.56(a).

On behalf of the inventors and/or the assignee, I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any provisional application filed in the United States in accordance with 35 U.S.C. §1.119(e), or any application for patent that has been converted to a Provisional Application within one (1) year of its filing date, or any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

PRIOR FILED APPLICATION(S)

<u>APPLICATION</u>	<u>COUNTRY</u>	<u>(DAY/MONTH/YEAR FILED)</u>	<u>PRIORITY</u>
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<u>NUMBER</u>			<u>CLAIMED</u>
60/472,704	US	21 MAY 2003	YES
60/444,107	US	31 JANUARY 2003	YES
60/403,973	US	16 AUGUST 2002	NO

On behalf of the inventors and/or the assignee, I hereby claim the benefit under Title 35, United States Code, §120 of any United States application listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in any prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a), which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>APPLICATION NO.</u>	<u>FILING DATE (DAY/MONTH/YEAR)</u>	<u>STATUS – PATENTED, PENDING, ABANDONED</u>
10/743,308	23 DECEMBER 2003	PENDING
10/642,037	15 AUGUST 2003	PENDING

On behalf of the assignee, I hereby appoint as Lumenis Ltd. attorney(s) and agent(s) Mark S. Cohen (Attorney, Registration No. 42,425) or Caleb Pollack (Attorney, Registration No. 37,912) or Guy Yonay (Attorney, Registration No. 52,388) or Guy Levi (Attorney, Registration No. 55,376) said attorney(s) and agent(s) with full power of substitution and revocation to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Please address all correspondence regarding this application to:

EITAN, PEARL, LATZER & COHEN ZEDEK, LLP.
 10 ROCKEFELLER PLAZA
 SUITE 1001
 NEW YORK, NEW YORK 10020

Direct all telephone calls to (212) 632-3480 and all facsimiles at (212) 632-3489.

Customer No. 27130

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF INVENTOR: **ANDERSON, Robert S.**

FULL RESIDENCE ADDRESS: **547 Rhea Way, Livermore, CA 94550,**

COUNTRY OF CITIZENSHIP: **USA**

FULL POST OFFICE ADDRESS: **same**

FULL NAME OF INVENTOR: **YOUNG, Steven Randal**

FULL RESIDENCE ADDRESS: **1560- Riverlake Road, Discovery Bay, CA 94514,**

COUNTRY OF CITIZENSHIP: **USA**

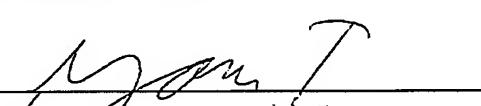
FULL POST OFFICE ADDRESS: **same**

FULL NAME OF DECLARANT: **IGER, Yoni**

FULL RESIDENCE ADDRESS:

COUNTRY OF CITIZENSHIP: **ISRAEL**

FULL POST OFFICE ADDRESS: **same**

SIGNATURE 

DATE 4/11/04
(day / month / year)



Attorney Docket No.: P-6464-US2

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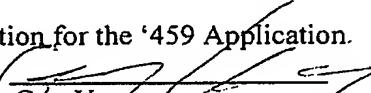
Title: SYSTEM AND METHOD FOR TREATING TISSUE

STATEMENT OF GUY YONAY IN SUPPORT OF PETITION UNDER 37 C.F.R.
§1.47

1. I, the undersigned, am an attorney associated with Eitan, Pearl, Latzer & Cohen Zedek, which represents Lumenis Ltd. ("Lumenis") in the prosecution of US Application Ser. No. 10/767,459 ("the '459 Application") before the United States Patent and Trademark Office.
2. The named inventors of the '459 Application are Robert S. Anderson and Steven Randal Young (the "Inventors").
3. Upon information and belief, the '459 Application describes and claims invention(s) that the Inventors invented while employed at Lumenis relating to projects in the course of their employment.
4. The Inventors have assigned all their right, title and interest in the '459 Application to Lumenis. (A copy of the assignment is attached hereto as Exhibit A).
5. Upon information and belief the Inventors terminated their employment with Lumenis prior to the filing of the '459 Application.

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6. On behalf of Lumenis, I presented a copy of the application papers to the Inventors for their signature.
7. In response to the application papers, Robert S. Anderson wrote an email to myself dated 15 September, 2004, in which he stated that "I need to meet with my attorney regarding the Declaration and the Power of Attorney as I do not want to claim to be the inventor of something I did not invent." (A copy of the email is attached hereto as Exhibit B).
8. In a subsequent telephone conversation between myself and Mr. Anderson (who was speaking for himself and Mr. Young), Mr. Anderson expressed his and Mr. Young's refusal to sign an oath or a declaration.
9. Messrs. Anderson and Young, who are no longer employed by assignee, have not since then signed an oath or declaration for the '459 Application.



Guy Yonay
Attorney for Applicant(s)
Registration No. 52,388

Dated: November 3, 2004

Eitan, Pearl, Latzer & Cohen Zedek, LLP.
10 Rockefeller Plaza, Suite 1001
New York, New York 10020
Tel: (212) 632-3480
Fax: (212) 632-3489

Attorney Docket Nos: P-6464-USP, P-6464-USP1, P-6464-USP2, P-6464-USP3, P-6464-USP4, P-6464-US

ASSIGNMENT

In consideration of One Dollar (\$1.00), and other good and valuable considerations, the Receipt of which is hereby acknowledged, I the undersigned, ANDERSON, Robert S. residing at 547 Rhia Way, Livermore, CA 94550; Young, Steven Kandal residing at 1560 Riverlake Road, Discovery Bay, CA 94514,

Hereby sell, assign, and transfer to ILLUMENIS LTD., an Israeli company located at P.O. Box 240, Yokneam 20692, Israel, its successors, assigns and legal representatives, the entire right, title and interest for all countries, in and to any and all patentable inventions which are disclosed and claimed, and as possessed by the undersigned, any and all patentable inventions which are disclosed and legally capable of being claimed in the following United States Patent Applications:

Provisional Application Serial No. 60/403,973 filed August 16, 2002 and entitled

METHOD OF DESTROYING UNDESIRABLE TISSUE

Provisional Application Serial No. 60/436,334 filed December 23, 2002 and entitled

METHOD OF DESTROYING UNDESIRABLE TISSUE

Provisional Application Serial No. 60/436,327 filed December 23, 2002 and entitled

NON-INVASIVE SYSTEM AND METHOD FOR REMOVAL OF ADIPOSE TISSUE

Provisional Application Serial No. 60/444,107 filed January 31, 2003 and entitled

THERAPEUTIC TREATMENT MODALITY USING EPIDERMAL AND DERMAL STRETCHING

Provisional Application Serial No. 60/472,704 filed May 21, 2003 and entitled

SYSTEM AND METHOD FOR ACNE REMOVAL USING LIGHT, SUCTION AND COOLING

Application Serial No. 10/642,037 filed August 15, 2003 and entitled

METHOD OF DESTROYING UNDESIRABLE TISSUE

Application Serial No. 10/743,308 filed December 23, 2003 and entitled

SYSTEM AND METHOD FOR DESTROYING UNDESIRABLE TISSUE

Application Serial No. 10/767,459 filed January 30, 2004 and entitled

SYSTEM AND METHOD FOR TREATING TISSUE

(continued on next page)

Attorney Docket Nos: P-6464-USP, P-6464-USP1, P-6464-USP2, P-6464-USP3, P-6464-USP4, P-6464-US

and in and to divisional, continuation, substitute, renewal, and reissue applications on said inventions for U.S. Letters Patent or other related property rights in any and all foreign countries which have been or shall be filed on any of said inventions disclosed in said applications; and in and to all original and reissued patents or related foreign documents which have been or shall be issued on said inventions;

Authorize and request the Commissioner of Patents of the United States to issue to said Assignee, the corporation above named, its successors, assigns and legal representatives, in accordance with this assignment, any and all United States Letters Patent on said inventions or any of them disclosed in said application;

Agree that said Assignee may apply for and receive foreign Letters Patent or rights of any other kind for said inventions, or any of them; and may claim, in applications for said foreign Letters Patent or other rights, the priority of the aforesaid United States patent application under the provisions of the International Convention of 1883 and later modifications thereof, under the Patent Cooperation Treaty, under the European Patent Convention or under any other available international agreement;

COVENANT with said Assignee, its successors, assigns and legal representatives that no assignment, grant, mortgage, license, or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

Robert S. Anderson
ANDERSON, Robert S.

547 Rhea Way Livermore, CA 94550

August 19, 2004

Steve Young
YOUNG, Steve
1560 Riverlake Rd. Discovery Bay, CA 94514

August 19, 2004

-----Original Message-----

From: Robert Anderson [mailto:rsavip@yahoo.com]
Sent: Wednesday, 15-09-2004 1:33 AM
To: Guy.Yonay@epic.com
Subject: Patent assignment

I am responding to your letter date September 10, 2004. In regards to the two CIPs not included in the original assignment agreement, I have retyped this agreement included these two items. Their omission was purely a typing error.

I will not have time to send an update to the prior art before September 17, 2004 as I am leaving tomorrow for a four day back packing trip. I will however, update the prior art as soon as I return on Monday. I hope this does not create any problems.

I need to meet with my attorney regarding the Declaration and the Power of Attorney as I do not want to claim to be the inventor of something I did not invent.

R. Anderson

Do you Yahoo!?
Yahoo! Mail - You care about security. So do we.